

REMARKS

After entry of the present amendment, claims 1-6, 10, and 13 will be pending. Claim 1 has been amended to incorporate the limitations of claims 4 and 5. Specifically, R¹-R² has been limited to (a-5), R³ has been limited to halo, and R⁴ has been limited to halo. Claims 9, 11, and 12 have been canceled. The Applicants expressly reserve the right to file the subject matter of the canceled claims in one or more continuing or divisional applications.

The Applicants thank Examiner Chang for the courtesy of conducting a telephonic interview with the Applicants' representatives on May 4, 2009. All claims were discussed in view of the cited art.

Rejection under 35 U.S.C. § 103

The Office has withdrawn the rejection under 35 U.S.C. § 103 over U.S. 6,544,997 in view of US 4,186,135 for claims 4 and 5. Claim 1 has been amended to incorporate the limitations of claims 4 and 5. As all pending claims incorporate the limitations of amended claim 1, the Applicants request that the rejection of claims 1-3, 6, and 10 be withdrawn.

Rejoinder and allowability of claim 13

The Office has advised that claim 13 would be allowable if limited to the allowable scope of claims 4 and 5. In view of the amended claims, Applicants submit claim 13 is now in condition for allowance.

Obviousness-type double patenting

In view of the present claim amendments and the comparative data set forth in the specification at page 54, the Applications respectfully request that the obviousness-type double patenting rejection over US 6,544,997 in view of U.S. 4,186,135 be withdrawn.

Claims 1-3, 6, 10, and 13 stand rejected under the judicially created doctrine of obviousness type double patenting over U.S. App. No. 10/560,555, now U.S. 7,498,347. While not conceding the propriety of the rejection, a terminal disclaimer over U.S. 7,498,347 is submitted herewith to obviate the rejection over that patent.

Claims 1-3, 6, 10, and 13 stand provisionally rejected under the judicially created doctrine of obviousness type double patenting over U.S. App. No. 10/560,479. U.S. App. No. 10/560,479 has not issued or been allowed and is not earlier-filed to the present application. Accordingly, Applicants submit that the present application should be allowed to issue as a patent without a terminal disclaimer over U.S. App. No. 10/560,479. The necessity of a terminal disclaimer may be considered once allowable subject matter is confirmed in the respective applications.

Conclusion

The Applicants assert that the foregoing constitutes a full and complete response to the April 9, 2009 Office Action and that claims 1-3, 6, 10, and 13 are in condition for allowance. An early notice to that effect is earnestly solicited.

Date: June 3, 2009

/Stephanie A. Barbosa/

Stephanie A. Barbosa
Registration No. 51,430

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439